

# **Yacht and Ship Brokers Act**

*Excerpts from the Harbors and Navigation Code,  
Unemployment Insurance Code,  
and California Code of Regulations*  
Department of Boating and Waterways  
2000 Evergreen Street, Suite 100  
Sacramento, California 95815-3896

---

## **YACHT AND SHIP BROKERS ACT**

The following are excerpts from the Harbors and Navigation Code, Unemployment Insurance Code and California Code of Regulations, which make up the Yacht and Ship Brokers Act (Act) and the laws and regulations governing the administration and licensing of vessel brokers and salespersons.

---

### **EXCERPTS FROM THE HARBORS AND NAVIGATION CODE**

#### **Article 2. Yacht and Ship Brokers**

[Click Here for Article 2.](#)

### **CALIFORNIA CODE OF REGULATIONS EXCERPTS FROM TITLE 14 CALIFORNIA CODE OF REGULATIONS Article 8. Yacht and Ship Broker Licenses**

[Click Here for Article 8.](#)

# EXCERPTS FROM THE HARBORS AND NAVIGATION CODE

## Article 2. Yacht and Ship Brokers

[Back](#)

- 700. Citation of article.
  - 701. Definitions.
  - 702. Public inspection of records.
  - 702.5
  - 703. Director's authority.
  - 704. Advisory function of commission.
  - 705. Authenticity of papers as evidence.
  - 706. Attorney General as attorney.
  - 707. Directory, bulletins and reports.
  - 708. Licensing provisions.
  - 709. Fraudulent or negligent misrepresentation.
  - 710. Exemptions.
  - 711. License required to collect compensation.
  - 712. Unlicensed persons, prohibitions and violations.
  - 713. Partnership acting as broker.
  - 714. Deposit and record of funds, neutral escrow depository.
  - 715. After closing of transaction, duties.
  - 716. Transactions, written authorization required and copies.
  - 717. Application for broker license.
  - 718. Application for salesman license.
  - 719. Qualifications.
  - 720. Proof concerning applicant's reputation.
  - 721. Written examination.
  - 722. Term of broker's license, renewal.
  - 723. Term of salesman's license, renewal.
  - 724. License renewal, expiration, reinstatement, and fees.
  - 725. Temporary licenses.
  - 726. Failure to renew, requirements for new license.
  - 727. Certificate of convenience.
  - 728. Corporation licenses.
  - 729. Partnership licenses.
  - 729.5
  - 730. Surety bond, action on bond, new bond.
  - 731. Alternative bond requirement.
  - 732. Denial of application, suspension, or revocation.
  - 733. Additional grounds for denial, suspension, or revocation.
  - 734. Hearings and investigations.
  - 735. Broker's offices.
  - 735.1. Records retention, availability.
  - 735.2
  - 736. Fee Schedule.
  - 737. Proceedings, hearings, judicial review.
  - 738. Violations.
  - 739. Civil penalties.
  - 740. Statute of limitations.
  - 754. Record of vessel stored over 12 hours.
650. [Employment; yacht broker or salesperson.](#)

**700. Citation of article.** This article shall be known and may be cited as the Yacht and Ship Brokers Act.

**701. Definitions.** Unless the context otherwise requires, the following definitions shall govern the construction of this article:

(a) "Broker" means a person who, except as otherwise excluded by Section 710, for compensation or in expectation of compensation, does, or negotiates to do, one or more of the following acts for another or others: (1) Sells or offers to sell, buys or offers to buy, solicits or obtains listings of, or negotiates the purchase, sale, or exchange of yachts, and who does not own those yachts. (2) Leases or rents, offers to lease or rent, places for rent, solicits a listing of a yacht for rent, or negotiates the sale, purchase, or exchange of a lease on a yacht, for a rental or lease period of more than 90 consecutive days to any one person or business during any 12-month period, and who does not own that yacht. (b) "Salesman" refers to a natural person who, except as otherwise excluded by Section 710, for compensation or in expectation of compensation, is employed by a licensed broker to do one or more of the acts set forth in subdivision (a). The term includes "saleswoman" and "salesperson." (c) "Yacht" or "ship" refers to any vessel 16 feet or more in length and under 300 gross tons used for navigating in water and designed to be propelled by machinery or sail.

**702. Public inspection of records.** Except as otherwise provided by law, all records of the department relating to yacht brokers and yacht salesmen shall be open to inspection by the public during regular office hours.

**702.5** Any declaration, license, or other record electronically generated or transmitted pursuant to this article shall meet the requirements of a "record" under Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code.

**703. Director's authority.** (a) The director may, in accordance with the State Civil Service Act (commencing with Section 18500 of the Government Code), select, employ, and fix the compensation of such employees as may be necessary properly to administer this article, provided that no employee of the department shall have an interest for financial or other personal gain in the business of a licensed broker as director, stockholder, officer, member, agent, salesman, or employee.

(b) The director may prescribe the duties of all employees.

(c) The director may regulate and control the issuance, denial, suspension, and revocation, both temporary and permanent, of the licenses issued under this article.

(d) The director may perform all other acts and duties necessary for the proper enforcement of this article.

(e) The director may institute proceedings in any court of competent jurisdiction to enforce the provisions of this article by injunction or otherwise.

(f) The director or any member of the department may administer oaths for the purpose of executing this article.

(g) The director may prescribe rules and regulations to carry this article into effect in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and may authorize the department to establish branch offices in such other cities as may be necessary for the proper administration of this article.

**704. Advisory function of commission.** In accordance with the provisions of Section 82 of this code, the commission shall advise the department with respect to all matters relating to the administration of this act. The department shall submit any proposed regulations or changes in regulations pertaining to this act for review and comment by the commission prior to enactment.

**705. Authenticity of papers as evidence.** (a) The director may adopt a seal and such other device for use by the department as it may desire, which may be used to authenticate all papers and documents required by this article which are under the control of the department.

(b) Copies of all records and papers required by this article which are in the department's office shall be received in evidence in all cases, when certified under the hand and seal of the department, equally and with like effect as the originals.

**706. Attorney General as attorney.** The Attorney General shall act as the attorney for the department in all actions and proceedings pursuant to this article and shall render to the department opinions upon all questions of law arising under this article or in its administration.

**707. Directory, bulletins and reports.** (a) The department shall publish or cause to be published on or before July 1st of each year a directory of licensed brokers and salesmen and may publish such additional information as it deems expedient. The department may also issue a periodical bulletin concerning affairs arising under the administration of this article.

(b) The department shall submit to the Governor a full and true report of its activities under this article, including a complete statement of receipts and expenditures during the preceding two years. This report shall be a part of the biennial report of the department.

**708. Licensing provisions.** (a) No person shall engage in the business of, act in the capacity of, advertise as, or assume to act as a broker or salesperson within this state without first obtaining a license under this article to do so.

(b) Only the person to whom a license is issued may perform or offer to perform any act subject to this article.

(c) No fictitious name shall be used by a broker in the conduct of any business, for which a license is required under this article, unless a license bearing that fictitious name has been issued to the broker.

(d) The department shall not issue a license under a fictitious business name which is the same as or similar to the fictitious business name on a license previously issued and in effect.

**709. Fraudulent or negligent misrepresentation.** No licensed broker or licensed salesman shall practice any fraud or deceit or make any fraudulent or grossly negligent representation with respect to any act for which a license is required under this article.

**710. Exemptions.** The definitions of "broker" and "salesperson," as set forth in Section 701, do not include the following:

(a) A person who directly performs any act subject to this article with reference to a yacht owned by that person or, in the case of a corporation which, through its regular officers receiving no special compensation therefor, performs any act subject to this article with reference to the corporation's yacht.

(b) Services rendered by an attorney at law in performing duties as an attorney at law.

(c) Any receiver, trustee in bankruptcy, or other person acting under the order of any court.

(d) Any transaction involving the sale of property subject to foreclosure of a security interest in a yacht which is conducted only by the holder of the security interest or by a person licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code when liquidating repossessed collateral pursuant to the written request of the holder of the security interest.

(e) Any transaction involving the sale, lease, or rental of a yacht in excess of 300 gross tons or tenders thereof sold at the same time.

(f) Any transaction involving the sale, lease, or rental of a new yacht or ship.

(g) Any transaction in the regular course of business by a wholesale motor vehicle auction subject to regulation by the Department of Motor Vehicle.

**711. License required to collect compensation.** No person engaged in the business or acting in the capacity of a licensed broker or salesman within this state shall bring or maintain any action in the courts of this state for the collection of compensation for the performance of any of the acts mentioned in this article without alleging and proving that he was a duly licensed broker or licensed salesman at the time the alleged cause of action arose.

**712. Unlicensed persons, prohibitions and violations.** (a) No licensed broker shall employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this article who is not a licensed broker or salesman licensed under the broker employing or compensating him or her, except that a licensed broker may pay a commission to a broker of another state or country.

(b) No salesman shall accept compensation for performing any of the acts within the scope of this article from any person other than the broker under whom the salesman is at the time licensed.

(c) No licensed salesman shall pay any compensation for performing any of the acts within the scope of this article to any broker licensed under this article, except through the licensed broker under whom the salesman is at the time licensed.

(d) For violation of any of the provision of this article, the department may suspend or permanently revoke the license of the broker in accordance with the provision of this article.

**713. Partnership acting as broker.** Nothing contained in this article shall preclude a partnership from performing acts for which a broker's license is required, provided every partner through whom the partnership so acts is a licensed broker.

**714. Deposit and record of funds, neutral escrow depository.** A licensed broker who accepts funds from others in connection with any transaction subject to this article who does not, as soon as possible, place those funds into a neutral escrow depository, shall place the funds into a trust fund account maintained by the broker in some bank or recognized depository and shall retain all the funds in the account until the broker makes a disbursement of the funds in accordance with written instructions from the person entrusting the money. The written instructions shall also set forth the specific purposes for which the broker may use money deposited with him or her. If the broker wishes to use money from the deposit for a purpose not included in the written instructions, the broker shall first obtain the written consent of the person entrusting the money specifically authorizing the use proposed by the broker for the money. The written consent may be given to the broker by a letter or facsimile. A separate record shall be maintained of all moneys received subject to this section and shall further indicate the disposition thereof. Any funds received by a licensed salesperson shall be delivered by the salesperson to the broker under whom the salesperson is at the time licensed. As used in this section, "neutral escrow" means an escrow business conducted by a person licensed under Division 6 (commencing with Section 17000) of the Financial Code or by any person described by subdivision (a) or (c) of Section 17006 of the Financial Code.

**715. After closing of transaction, duties.** Within one month after the closing of a transaction in which title to a yacht is conveyed from a seller to a purchaser through a licensed broker, the licensee shall provide, or cause to be provided to the seller and purchaser, a closing statement in writing of the selling price thereof, including all charges and credits which shall be itemized, and in the event an exchange of yachts is involved, the information shall include a description of the yachts and amount of added money consideration, if any. The licensee shall affix his or her signature to the closing statement to attest to the facts provided in the closing statement. If the transaction is closed through escrow and the escrow holder renders a closing statement which reveals the information, that shall be deemed compliance with this section on the part of the licensed broker.

**716. Transactions, written authorization required and copies.** (a) No broker shall engage in any transaction for which a license is required under this article without first obtaining a signed written authorization to do so from the broker's principal. An authorization to sell shall contain a description of the vessel, including the undocumented vessel's registration number or the name, official number, and home port if the vessel is documented with a federal agency. The written authorization shall also state the type of listing, the gross listing price, the agreed upon commission or other compensation of the broker, and any repairs authorized to be made.

(b) An offer to purchase shall contain the description of the yacht, including the undocumented vessel's registration number or the name, official number, and home port if the vessel is documented with a federal agency. The written authorization to purchase shall also state the amount of deposit, terms of the sale, and any contingencies or conditions under which a deposit shall not be returned if the sale is not completed.

(c) When a broker prepares, or there is prepared on behalf of a broker, a written authorization to sell or purchase, the broker shall deliver a copy of the written authorization to the person executing it. Receipt of the copy shall be made on the face of the original written authorization.

**717. Application for broker license.** Application for a license as a broker shall be made on forms prescribed by the department and shall be signed by the applicant. The application shall be accompanied by the broker license examination fee.

**718. Application for salesman license.** Application for a license as a salesman shall be made on forms prescribed by the department and shall be signed by the applicant and by the employing broker. The application shall be accompanied by the salesman's license examination fee.

**719. Qualifications.** (a) A person shall be deemed qualified to submit an application for a broker's license if, as shown on the department's records, the person has been employed, within five years preceding his or her application, as a licensed salesperson for at least one year, has been licensed as a broker within five years preceding his or her application, has owned and operated a marine business selling new or used yachts for a minimum of three continuous years immediately preceding application for a broker's license, or has been employed as a broker or a yacht salesperson in another state when that employment was a primary occupation for a minimum of three continuous years immediately preceding application for a broker's license in California. Proof of employment as a broker in another state or as a marine business selling new or used yachts in California shall be in the form of all of the following:

(1) State, if applicable, and federal income tax returns, or a proof of earning statement made by the applicant under penalty of perjury, for the three-year period preceding application in California.

(2) Has not been cited for a violation of this article within the preceding two years.

(3) Possesses a working knowledge and understanding of the principles of the yacht brokerage business and profession.

(4) If the applicant conducts a yacht or ship brokerage business in another state that requires broker or salesperson licensing, evidence of a current license in that state.

(b) If the applicant is a partnership, then one of the partners of the applicant shall have the foregoing qualifications.

(c) If the applicant is a corporation, then the officer or officers of the corporation to be designated for a license as provided in this article shall have the foregoing qualifications.

(d) If the applicant is an individual, the applicant shall be at least 18 years of age.

**720. Proof concerning applicant's reputation.** The department may require proof as it deems advisable concerning the honesty, truthfulness, and good reputation of the applicant for a broker's or salesperson's license or of the officers of any corporation making application before the issuance of a broker's license. For this purpose, the director may call a hearing in accordance with this article, and at the request of the applicant shall call a hearing.

**721. Written examination.** (a) In addition to any proof of honesty, truthfulness, and good reputation required of any applicant for a broker's license, the department shall ascertain by written examination that the applicant, and in case of a partnership or corporation applicant for a broker's license that an officer or partner thereof through whom it proposes to act as a yacht broker, has all of the following: (1) Appropriate knowledge of the English language, including reading, writing, and spelling, and of arithmetical computations common to the yacht brokerage business. (2) An understanding of the principles of the yacht brokerage business and profession, including an understanding of a certificate of ownership, certificate of number, security agreement, bill of sale, and other documents required to register and number, and to transfer title of an undocumented vessel pursuant to the Vehicle Code. (3) An understanding that transfer of title of a documented vessel shall be performed in accordance with federal law as administered by the United States Coast Guard. (4) An understanding of maritime and admiralty liens with respect to vessels and the requirements of the Department of Transportation or other federal agency and the United States Coast Guard with respect to documentation, mortgaging, and transferring of title of documented vessels. (5) An understanding of agency contracts and of types and kinds of listings and deposit receipts with respect to vessels. (6) A general knowledge of equipment legally required on a yacht. (7) A general understanding of the obligations between principal and agent, and of the fiduciary relationship between them, and of business ethics pertaining to the business and profession of yacht brokers and yacht salespersons. (8) A general knowledge of yachts.

(b) (1) If an applicant fails to pass the required examination, the department shall so notify the applicant, may suggest further study, and, upon payment of the required fee, shall schedule a reexamination. (2) Notwithstanding paragraph (1), whenever an applicant fails to pass the written examination on the third attempt to do so, he or she shall be prohibited from retaking the examination for a period of six months from the date of taking the third examination.

**722. Term of broker's license, renewal.** The license first issued to a broker shall be for a period of one year. Such license may be renewed for periods of two years upon filing of the required application and payment of the required fee.

**723. Term of salesman's license, renewal.** The license first issued to a salesman shall be for a period of one year. Such license may be renewed for periods of two years. Applicants for renewal of such licenses shall submit a recommendation

of the broker who is to be his employer certifying that the applicant is honest, truthful, and of good reputation. The license of a salesman may be renewed upon filing the required application and payment of the renewal fee.

**724. License renewal, expiration, reinstatement, and fees.** (a) An application on the form prescribed by the department for the renewal of a broker or salesman license shall be filed with the department prior to the last day of the period for which a previous license was issued, accompanied by the applicable renewal fee.

(b) Every license not renewed in accordance with subdivision (a) shall expire at midnight of the last day of the period for which it was issued and shall immediately be returned to the department. The license may thereafter be reinstated only upon the filing of an application therefor, accompanied by the payment of the renewal fee required by this article, together with a penalty equal to 50 percent of the renewal fee. No examination shall be required for the reinstatement of a license which has expired solely for nonpayment of the renewal fee as required by this subdivision, subject to Section 726.

(c) An application for the reinstatement of a license which has expired pursuant to subdivision (b) shall be executed under penalty of perjury. The department may refuse to grant reinstatement if the applicant, after the expiration of the license, has performed any act or participated in any transaction for which a license is required by this article or, during the period, has committed any offense or performed any act which would be cause for the suspension or revocation of a license under this article. However, the department shall not refuse to grant reinstatement unless written notice of the grounds of the refusal is mailed or delivered to the applicant.

(d) A salesman's license which expires other than pursuant to subdivision (b) and under conditions beyond the control of the salesman may be reinstated with another broker on payment of the transfer fee and the renewal fee if applicable and without penalty.

(e) All fees charged and collected under this article shall be paid by the department at least once a month, accompanied by detailed statement, into the State Treasury to the credit of the Harbors and Watercraft Revolving Fund.

(f) All fees charged and collected under this article and paid into the State Treasury are continuously appropriated to carry out the provisions of this article and shall be paid in the manner provided by law.

(g) The department may establish a revolving fund in an amount that it may determine subject to the approval of the director.

**725. Temporary licenses.** Temporary licenses may be issued to salesmen under the following conditions:

(a) Such licenses shall be issued for a period not to exceed 60 days and only one license shall be issued to each applicant.

(b) An application shall be filed for a temporary license and for a permanent license and at the same time the applicant shall pay all the prescribed fees.

(c) Such application shall be in such form and upon such conditions as are required by the department as provided in this article with respect to a permanent salesman's license.

(d) On or before the expiration date of the temporary license, such licensee shall take a written examination for a permanent license. If without a valid excuse the licensee fails to appear for the examination at the time prescribed, the examination fee shall be forfeited. In the event of failure to pass the required examination, the department shall notify the applicant, may suggest further study, and upon payment of fees shall schedule a reexamination.

(e) The applicant shall be at least 18 years of age.

**726. Failure to renew, requirements for new license.** (a) A person who fails to renew his license within two years after its expiration may not renew it pursuant to Section 724. Such person may apply and obtain a new license, in which case all of the provisions hereof shall apply as if such person were applying for a license for the first time.

(b) In the event a salesman's license expires only because that salesman procured a broker's license or a broker's license expires only because that broker procured a salesman's license, either former license may be reinstated under the provisions of Section 724 within two years of the expiration of the latter license.

**727. Certificate of convenience.** The department may issue a certificate of convenience to the executor or administrator of the estate of a deceased broker, or if no executor or administrator has been appointed, and until a certified copy of an order making such appointment is filed with the department, to the widow or other heir otherwise entitled to conduct the business of the deceased, permitting such person to act as a broker in the conduct of the business of the estate for a period of 90 days from and after the date of death pending, but not later than, disposal of the business unless such person qualifies by examination for and obtains a permanent broker's license. The department may extend the certificate of convenience beyond the 90 days on the showing of a just and reasonable cause.

**728. Corporation licenses.** (a) Every license issued to a corporation entitles one officer thereof on behalf of the corporation to engage in the business of broker without the payment of any further fee and such officer shall be designated in the application of the corporation for a license.

When a broker's license is issued to a corporation, if it desires any of its officers other than the officer designated by it in the application as provided in this section to act under its license as a broker, it shall procure an additional broker's license to so employ each of such additional officers. For each officer other than the officer so designated through whom the

corporation engages in the business of broker, the appropriate original or renewal fee shall be paid in addition to the fee paid by the corporation.

(b) Each officer of a corporation through whom it is licensed to act as a broker is, while so employed under such license, a licensed yacht broker, but licensed only to act as such for and on behalf of the corporation as an officer.

(c) An officer of a corporation licensed to act as a broker on behalf of the corporation who desires also to act as a broker or salesman under this article on his own behalf shall procure a separate license in accordance with the provisions of this article.

(d) The department may deny, suspend, or revoke the broker's license of a corporation as to any officer acting under its license without revoking the license of the corporation. Every corporation making application for a license under this article shall furnish the department with a resolution of its board of directors giving the name of the officer or officers who shall act for and on behalf of the corporation.

(e) Every corporation licensed under the provisions of this article may by resolution of its board of directors substitute another officer for the one named in the corporation license, provided the person to be substituted qualifies as provided for in this article for a broker's license and the corporation pays the appropriate original, renewal, or transfer fee as set forth in this article.

**729. Partnership licenses.** (a) Every license issued to a partnership entitles one partner thereof on behalf of the partnership to engage in the business of yacht broker without the payment of any further fee and such partner shall be designated in the application of the partnership for a license.

(b) When a broker's license is issued to a partnership, if the partnership desires any partner or partners other than the partner designated by it as provided in this section to act under its license as a broker, the partnership shall procure an additional broker's license for each of such additional partner or partners. For each partner other than the partner designated through whom the partnership engages in the business of yacht broker, the appropriate original or renewal fee shall be paid in addition to the fee paid by the partnership. (c) Each partner of a partnership is licensed to act as a broker while such a partner under such license is a licensed broker, but is licensed only to act as such for and on behalf of the partnership.

(d) A partner of a partnership licensed to act as a broker on behalf of the partnership who desires also to act as a broker or salesman under this article on the partner's own behalf shall procure a separate license in accordance with the provisions of this article.

(e) The department may deny, suspend, or revoke the broker's license of a partnership as to any partner acting under its license without revoking the license of the partnership.

(f) Every partnership making an application for a license under this article shall set forth in the application the name of the partner who is to act under the license for and on behalf of the partnership.

(g) Every partnership licensed under the provisions of this article may substitute another partner for the one named in the partnership license provided the person to be substituted qualifies as provided for in this article for a broker's license and the partnership pays the appropriate original, renewal, or transfer fee as set forth in this article.

**729.5** (a) Any limited liability company licensed by the department as a yacht broker on July 1, 2001, in order to continue to be licensed after that date, shall apply to the department in the form of an individual, partnership, or corporation for a broker's license on or before the expiration date of its existing license.

(b) On or before February 1, 2001, the department shall provide notice of the requirements imposed by subdivision (a) to any limited liability company licensed by the department.

**730. Surety bond, action on bond, new bond.** (a) Before any broker's license shall be issued or renewed by the department for any applicant, the applicant shall procure, file, and maintain with the department a good and sufficient bond in the amount of fifteen thousand dollars (\$15,000) with a corporate surety duly licensed to do business within the State of California, and conditioned that the applicant shall not practice any fraud or deceit or make any fraudulent or grossly negligent representations that will cause a monetary loss to any person for whom the broker acts under this article.

(b) If any person suffers any loss or damage by reason of any fraud or deceit practiced on that person or any fraudulent or grossly negligent representation made to that person by a licensed broker or the broker's sales personnel acting for the broker on the broker's behalf or within the scope of the employment of the sales personnel, which fraud, deceit, or fraudulent or grossly negligent representation is practiced or made with respect to any act of the broker or the sales personnel for which a license is required under this article, that person has a right of action against the broker, the sales personnel, the surety upon the broker's bond, or the deposit held by the department in accordance with Section 731. If any action is commenced upon the bond, the surety thereunder and the licensed yacht broker with respect to whom the bond has been issued shall immediately notify the department of the action.

(c) If an action is commenced on the bond of a licensed broker, the department may require the filing of an additional bond, and immediately upon the recovery in any action on the bond, the broker described therein shall file a new bond.

Failure to file an additional bond within 15 days after notification that an additional bond is required by reason of action against the bond or after recovery on a bond constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled or on whose bond recovery has been made may be suspended.

(d) If a broker's bond is canceled for a reason other than an action being commenced upon it, a new bond shall be filed by the broker. Failure to file a new bond within 30 days after notification that a new bond is required because a previous bond has been canceled constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled may be suspended.

**731. Alternative bond requirement.** (a) A cash deposit given instead of the bond required by Section 730 shall be held by the department during the life of the license and for a period of four years after the expiration of the license.

(b) If an action is commenced on the cash deposit of a licensed broker pursuant to subdivision (a), the department may require the filing of an additional cash deposit, and immediately, upon the recovery in any action on the deposit, the broker described therein shall file a new cash deposit, equal to the amount specified in the action or recovery, but no greater than the amount specified in subdivision (a) of Section 730, whichever is less. Failure to file an additional cash deposit within 30 days after notification that an additional cash deposit is required by reason of an action filed against the cash deposit, or after the recovery on a cash deposit, shall constitute a failure to comply with this article, in which case the department may suspend the license of the licensed broker whose cash deposit has been acted on, or where a cash deposit recovery has been made.

**732. Denial of application, suspension, or revocation.** The department may deny an application or temporarily suspend or permanently revoke the license of a broker or a salesman at any time where the licensee, while a broker or salesman, in performing or attempting to perform any of the acts within the scope of this article, has committed any of the following acts:

(a) Makes any substantial misrepresentation, including a false advertisement or an omission of relevant facts upon which any person has relied.

(b) Makes a false warranty of a character likely to influence, persuade, or induce any person with whom business is transacted under this article.

(c) Engages in a continued and flagrant course of misrepresentation or makes false warranties whether or not relied upon by another person.

(d) Acts for the buyer and seller in a transaction without the knowledge and consent of both parties, except in the case where the selling broker is not the listing broker.

(e) Commingles the money or other property of his or her principal with that of his or her own or uses it for any purpose other than that for which it was entrusted, when the yacht involved in the transaction is not his or her own.

(f) Disburses or uses entrusted money for purposes other than those specifically authorized by Section 714.

(g) Uses coercive or oppressive methods for the purpose of obtaining business or of procuring a listing or participating in a transaction

(h) Quotes prices different than the gross listing prices without the consent of the seller.

(i) Engages in any other conduct constituting fraud or dishonest dealings, either with respect to his or her principal or other persons.

(j) Permits his name to be used for the purpose of assisting any person who is not a licensed broker or salesman to evade this article.

(k) Demonstrates negligence or incompetence in performing any act for which he or she is required to hold a license.

(l) As a broker licensee, fails to exercise reasonable supervision over the activities of his or her salespersons, or, as the person designated by a corporate or partnership licensee, fails to exercise reasonable supervision and control over the activities of the corporation or partnership for which a yacht and ship broker's license is required.

(m) Fails to act in accordance with, or disregards, his or her fiduciary duty toward a principal.

(n) Violates any provisions of Section 708, 712, 714, 715, 716, 730, or 731, or the rules and regulations of the department implementing this article.

**733. Additional grounds for denial, suspension, or revocation.** The department may deny an application or may suspend or revoke the license of a yacht broker or yacht salesman who within four years immediately preceding has committed any of the following acts:

(a) Has procured a license under this article for himself or another by fraud, misrepresentation or deceit.

(b) Has been convicted of a felony or any crime involving moral turpitude.

(c) Has withheld information from the department that he at any time has been convicted of a felony or any crime involving moral turpitude.

(d) Knowingly authorizes, directs, connives or aids in the publication, advertisement, distribution, or circulation of any material false statements or misrepresentation concerning his business or any transaction under this article.



(e) Has acted or conducted himself or herself in a manner that would warrant the denial of his or her application for a broker's or salesperson's license pursuant to Section 720.

**734. Hearings and investigations.** (a) The department shall not deny, suspend, or revoke a license granted under this article without a hearing, except the department may suspend a license without a hearing for failure of a broker to maintain a bond as specified in subdivision (d) of Section 730, or for failure of a broker to make available to the department, for inspection, any records, as set forth in Section 735.1.

(b) The department may upon its own motion, and shall upon the verified written complaint of any person which sets forth facts which could be grounds for the denial, suspension, or revocation of a license pursuant to this article, investigate the actions of any broker or salesman whether or not licensed.

(c) The suspension, expiration, or revocation by operation of law of a license issued by the department, or its surrender, whether voluntary or not, does not deprive the department of its authority, during the period in which the license may be renewed, reinstated, or reissued, to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law, to enter an order suspending or revoking the license, or to take any action against the licensee on any other ground provided by law.

(d) A broker whose license has been suspended pursuant to subdivision (a) for failure to make records available to the department for inspection, may request that an expedited hearing be held within 30 days of the suspension before an administrative law judge to appeal the suspension. Upon a showing of good cause to reinstate the license, the broker's license shall be reinstated. If no good cause is found, the broker's license may be revoked. (e) (1) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding under this article, the department may request the administrative law judge to direct a licensee found to have committed a violation or violations of this article to pay a sum not to exceed the reasonable costs of the investigation, prosecution, and enforcement of the case. For purposes of this paragraph, "reasonable costs" shall include, but not be limited to, all of the following: (A) Attorney, paralegal, and investigator fees and costs, including salary, travel, and other expenses attributable to hours expended on the case by employees of the office of the Attorney General and the department. (B) Witness fees, travel, and other expenses paid to or in connection with witnesses to facilitate their attendance and testimony at the disciplinary proceeding or to facilitate their appearance at a deposition, by video or by other means. (C) Fees and costs attributable to expert review, including, but not limited to, laboratory analysis, physical examination, and psychological examination, whether by an independent expert or a staff member of the department. (D) Administrative expenses attributable to case preparation and presentation, including, but not limited to, exhibit preparation and document copying, postage, telephone calls, word processing, whether by an independent contractor or a staff member of the department, and costs for obtaining certified public documents. (2) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership. (3) A declaration under penalty of perjury of the actual costs, or a good faith estimate of costs if the actual costs are not available, signed by the director, and containing sufficient information by which the administrative law judge can determine the costs incurred in connection with the matter and the reasonableness of the costs, shall be prima facie evidence of reasonable costs of investigation, prosecution, and enforcement of the case. (4) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to paragraph (1). The department may reduce or eliminate the award of any costs by the administrative law judge, and may request the administrative law judge to reconsider his or her decision if the proposed decision does not make a finding on costs as requested pursuant to paragraph (1). (5) Where an order for recovery of costs is made and timely payment is not made as directed, the department may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the department may have as to any licensee to pay costs. (6) In any action for recovery of costs, proof of the department's decision shall be conclusive proof of the validity of the order of payment and the terms for payment. (7) The department shall not renew or reinstate the license of any licensee who does not pay all of the costs ordered under this section. (8) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the Harbors and Watercraft Revolving Fund. (9) Nothing in this section shall preclude the department from including the recovery of the costs of investigation, prosecution, and enforcement of a case in any stipulated settlement.

**735. Broker's offices.** (a) Every broker shall maintain a definite place of business in this state as his principal office and may establish other branch offices throughout the state. Every broker maintaining more than one place of business within this state shall procure an additional license for every branch office maintained by him. Every broker shall keep the department informed at all times of the address of his principal and branch offices and any changes of address.

(b) Every broker's license shall be prominently displayed in the broker's principal office. The license for each branch office, if any, of such broker shall be prominently displayed in such branch office. Every salesman's license shall be prominently displayed in the principal office or branch office of the broker in which the business of such salesman is transacted. When a broker or any branch office to which a license was issued, for any reason ceases to be licensed, or when there is a name or address change, such license shall be immediately returned to the department.

(c) Every salesman's license shall remain in the control of the broker by whom the salesman is employed until the license is canceled or until he leaves the employment of the broker. Immediately upon the salesman's withdrawal from the employment of the broker, such broker shall return such salesman's license to the department for cancellation and shall notify the department of the exact date of termination.

(d) Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the department may be issued without charge to such licensee, which card shall be evidence that the licensee is duly licensed pursuant to this article. When any broker to whom a card is issued ceases for any reason to be licensed as a broker, the card issued to such broker shall be mailed or delivered by the broker to the department for cancellation. When any salesman to whom a card is issued ceases to be a salesman for any reason, the card issued to him shall be mailed or delivered to the department for cancellation.

**735.1. Records retention, availability.** A licensed broker shall retain, for four years, copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed or obtained by the broker in connection with a transaction for which a broker's license is required. These records shall be made available to the department for inspection upon request. If the records have not been made available within 30 days of a request by the department, the department may subpoena the requested records. If the records have not been made available within 14 days from the requested day of production on the subpoena, and the director determines that the public may be at risk if the broker continues to be licensed, the department may suspend the broker's license pursuant to Section 734.

**735.2** The department shall accept any electronic record or electronic or digital signature created, generated, sent, communicated, received, or stored by electronic means on or after January 1, 2000. A "digital signature" means a signature that complies with the regulations adopted by the Secretary of State relating to digital signatures.

**736. Fee Schedule.** The department shall charge and collect the fees prescribed by this article in accordance with the following schedule:

- (a) Two hundred dollars (\$200) for each original broker's license.
- (b) Seventy-five dollars (\$75) per year for the renewal of an original broker's license.
- (c) One hundred dollars (\$100) for each original salesperson's license.
- (d) Fifty dollars (\$50) per year for the renewal of an original salesperson's license.
- (e) Twenty-five dollars (\$25) for a salesperson's temporary license.
- (f) Twenty-five dollars (\$25) for each license obtained by a broker for a branch office and for each renewal thereof.
- (g) Ten dollars (\$10) for each transfer of a salesperson's license for each change of employment.
- (h) Ten dollars (\$10) for each duplicate license.
- (i) Ten dollars (\$10) for each substitution of a name in the license of a corporation or a partnership.
- (j) Ten dollars (\$10) for the granting of each certificate of convenience under Section 727.
- (k) Twenty-five dollars (\$25) for each examination.
- (l) A criminal records investigation fee, collected for both a salesperson's and broker's license, in an amount determined by the Department of Justice, or by any other state or federal custodian of criminal records from which the department has requested information concerning an applicant's criminal record, not to exceed the amount needed to reimburse the department for conducting the criminal records investigation.

**737. Proceedings, hearings, judicial review.** (a) The proceedings and hearings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, including the right of judicial review as provided for in Section 11523 of the Government Code.

(b) In addition to any other disciplinary action and in lieu of a separate action in civil court, the department, as part of a disciplinary hearing conducted by an administrative law judge, may impose a civil penalty as provided in Section 739.

**738. Violations.** (a) Each violation of any section or subdivision of any section of this article, excepting Section 709, is a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000), provided that a violation committed willfully and with knowledge of the provisions of the violated section or subdivision is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and such imprisonment.

(b) Each violation of Section 709 is a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and such imprisonment.

**739. Civil penalties.** Any person who violates any provision of this article, or any regulation adopted pursuant to this article, is liable for a penalty in an amount not less than one hundred dollars (\$100) and not to exceed one thousand five hundred dollars (\$1,500) for each separate violation. The penalties provided in this section are in addition to the remedies or penalties available under all other laws of this state.

Every civil or administrative action brought under this article at the request of the director shall be brought by the Attorney General in the name of the people of the State of California, in any court of competent jurisdiction, or through the Office of Administrative Hearings pursuant to Section 737, except that, when the civil action is to be filed in a small claims court,

the director may bring the action.

The amount of penalty that is assessed pursuant to this section on each count of violation shall be based upon the nature of the violation and the seriousness of the effect of the violation upon the implementation of the purposes and provisions of this article. Any sum that is recovered under this section shall be deposited in the State Treasury to the credit of the Harbors and Watercraft Revolving Fund.

**740. Statute of limitations.** Any action taken in the enforcement of this article shall be commenced within three years of the department's discovery of the facts constituting the grounds for that action.

**754. Record of vessel stored over 12 hours.** (a) every keeper of a storage facility shall keep a written record of every vessel subject to registration with the Department of Motor Vehicles which is stored therein for compensation for a period longer than 12 hours.

(b) The record shall contain the name and address of the person storing the same and brief description of the vessel including its builder and builder's hull number.

(c) All records shall be opened to inspection by any peace officer.

### **Section 650 of the Unemployment Insurance Code is amended to read:**

**650. Employment; yacht broker or salesperson.** "Employment" does not include services performed as a real estate, mineral, oil and gas, or cemetery broker or as a real estate, cemetery or direct sales salesperson, or a yacht broker or salesman, by an individual if all of the following conditions are met:

(a) The individual is licensed under the provisions of Chapter 19 (commencing with Section 9600) of Division 3 of, or Part 1(commencing with Section 10000) of Division 4 of, the Business and Professions Code, Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code, or is engaged in the trade or business of primarily in person demonstration and sales presentation of consumer products, including services or other intangibles, in the home or sales to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis, for resale by the buyer or any other person in the home or otherwise than from a retail or wholesale establishment.

(b) Substantially all of the remuneration (whether or not paid in cash) for the services performed by that individual is directly related to sales or other output (including the performance of services) rather than to the number of hours worked by that individual.

(c) The services performed by the individual are performed pursuant to a written contract between that individual and the person for whom the services are performed and the contract provides that the individual will not be treated as an employee with respect to those services for state tax purposes.

# CALIFORNIA CODE OF REGULATIONS EXCERPTS FROM TITLE 14

## CALIFORNIA CODE OF REGULATIONS Article 8. Yacht and Ship Broker Licenses

[Back](#)

7601. General Definitions.	7612. Salesman's License, Transfer of, Restrictions on Employment.
7602 Advertising.	7613. Corporation and Partnership Licenses.
7603. Investigative Authority.	7614. Broker's Bond or Deposit.
7604. Trust Accounts.	7615. Coercive and Oppressive Methods.
7605. Shared Listings.	7616. Definite Place of Business.
7606. Fees.	7617. Branch Offices.
7606.1. Time Periods for Processing Yacht and Ship Broker, Salesman, and Associated Licenses.	7618. Identification Card.
7607. Written Examination.	7619. Broker-Salesman Relationship Agreement.
7608. Broker Qualifications.	7620. Retention of Records.
7609. License Reinstatement.	7621. Government Office.
7610. License Renewal (Failure to) Penalties.	7622. Property Taxes.
7611. Temporary Salesman's License.	7623. Offers.

**7601. General Definitions.** Unless otherwise expressly indicated or compelled by the context in which used, words, phrases, and references appearing in this Chapter shall have meanings as ascribed herein.

(a) An "exclusive listing" is a written agreement between the owner of a vessel and a broker which provides that the commission is due the broker named in the contract if the boat is sold, traded, or exchanged within the time limit which must be specified in the contract by the said broker, by any other broker, or by the owner.

(b) An "open listing" is a written agreement between the owner of a vessel and a broker which authorizes the broker to negotiate the sale, trade, or exchange of the vessel, but reserves to the owner the right, without incurring a liability for the payment of a commission to said broker, to negotiate the sale, trade, or exchange of said vessel himself, or to enter into open listing agreements with other brokers respecting said vessel.

(c) "Advertising" is any written or printed communication or oral communication made in accordance with a text or outline that has been reduced to written form which is published for the purpose of inducing persons to sell or purchase a product or use a service.

(d) An "applicant" is a person applying to the Department of Boating and Waterways for a license.

(e) The "Act" is the Yacht and Ship Brokers Act and regulations pertaining thereto.

(f) The "Code" is the Harbors and Navigation Code.

(g) The "Director" is the Director of the Department of Boating and Waterways.

(h) The "Department" is the Department of Boating and Waterways.

(i) An "examination" is an examination to qualify for any license issued under authority of the Yacht and Ship Brokers Act.

(j) A "license" is any license issued under authority of the Yacht and Ship Brokers Act.

(k) The "licensee" is a licensed broker or salesman.

(l) A "permanent license" is a Yacht and Ship Broker's or Salesman's License originally issued for one year and renewable for one or two years, as opposed to a salesman's temporary license issued for sixty days.

(m) The "Yacht and Ship Brokers Act" is Chapter 5 of Division 3, Article 2 of the Code.

(n) "Consummated" means that buyer and seller shall have a signed purchase agreement, which agreement shall contain all the conditions of the sale, and said conditions have been met.

(o) "Completed" means all the conditions of the purchase agreement have been met and the bill of sale has been passed from seller to buyer.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 701, Harbors and Navigation Code.*

**7602 Advertising.** (a) Advertising of any service for which a license is required under the provisions of the Yacht and Ship Brokers Act shall disclose the name of the business as shown on the required license.

(b) In addition to the name of the broker on signs or in advertising, the words "licensed yacht broker," "yacht broker," "ship broker," or "boat broker," or "brokerage" in each such context may be used to indicate that the broker is a licensed yacht broker.

(c) No person, firm, or corporation may use any of the designations set forth in subdivision (b) hereof unless duly licensed under the Yacht and Ship Brokers Act, or otherwise exempted by law.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 708, Harbors and Navigation Code.*

**7603. Investigative Authority.** (a) The department may, with reasonable cause to suspect that a person or business is acting in the capacity of a broker, investigate that person or business to ascertain whether a license is or is not required. (b) The department shall have authority to investigate and take lawful action deemed advisable with regard to complaints against brokers or salesmen acting only in a capacity for which they must be licensed.

(c) Any person, including a partnership or corporation purchasing used yachts for resale or taking yachts in trade for resale, shall transfer actual title to any such yacht into his name, or have in his possession, subject to inspection by the department, a good and sufficient bill of sale or other fit evidence of title if such person or firm wishes to claim exemption from licensing requirements of the Yacht and Ship Brokers Act.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 703, 706, 720, 732, 733 and 734, Harbors and Navigation Code.*

**7604. Trust Accounts.** (a) In the absence of the broker, a licensed salesman authorized in writing by the broker, or other persons authorized by this section to make withdrawals from trust accounts, shall make deposits to trust accounts pursuant to section 714 of the Harbors and Navigation Code. Withdrawals shall not be made from a trust account maintained as provided by section 714 of the Harbors and Navigation Code except upon the signature of at least one of the following:

(1) The broker;

(2) A salesman, or group of salesmen jointly who are in the employ of the broker and who have been authorized in writing by the broker to make withdrawals from such trust accounts. The broker shall not authorize more than one salesman or group of salesmen at any one time to make such withdrawals;

(3) Where the licensee is a corporation, any corporate officer who may be designated in writing by the corporation.

(b) Every broker required to maintain such trust fund account shall keep records of all funds deposited therein, which records shall clearly indicate the date and from whom he received the money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction.

(c) Failure to maintain a trust fund account when required, and to deposit trust funds received promptly in said account, may be construed to be commingling, in violation of section 732, subsection (e) of the Harbors and Navigation Code.

(d) Upon request, the above-written authorization shall be made available to the department for its inspection.

(e) A check received from the offeror may be held uncashed by the broker until acceptance of the offer if

(1) the check by its terms is not negotiable by the broker or if the offeror has written instructions that the check shall not be deposited nor cashed until acceptance of the offer and

(2) the offeree is informed that the check is being so held before or at the time the offer is presented for acceptance.

(f) In these circumstances if the offeror's check was held by the broker in accordance with subdivision (e) until acceptance of the offer, the check shall be placed into a neutral escrow depository or the trust fund account or into the hands of the offeree if offeror and offeree expressly so provide in writing not later than the next business day following acceptance of the offer unless the broker receives written authorization from the offeree to continue to hold the check.

*NOTE Authority cited; Section 703, Harbors and Navigation Code. Reference: Sections 714 and 716, Harbors and Navigation Code.*

**7605. Shared Listings.** If a broker intends to or does share a listing with other brokers, he must obtain authorization in writing from his principal to do so in his authorization to sell (listing agreement).

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 716, Harbors and Navigation Code.*

**7606. Fees.** In addition to license examination fees required by Sections 717 and 718 of the Harbors and Navigation Code to accompany applications for licenses, all other appropriate fees prescribed by Section 736 shall accompany such applications.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 717, 718 and 736, Harbors and Navigation Code.*

**7606.1. Time Periods for Processing Yacht and Ship Broker, Salesman, and Associated Licenses.** (a)

The Department shall notify the applicant, in writing, within 10 days from receipt of application, that the application is complete, or that the application is deficient, and what specific information is required.

(b) The Department shall then process the completed application for license(s), as required by Sections 717, 718, 722, 723, 724, 725, 727, 728, 729, and/or 735, Harbors and Navigation Code, and reach a decision to issue a license within 30 to 90 days, the median being 60 days.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 717, 718 and 724, Harbors and Navigation Code; and Section 15376(a)-(c), Government Code.*

**7607. Written Examination.** An applicant who fails to appear for a scheduled written examination without notifying the Department prior to the exam date shall forfeit the examination fee and be required to pay an additional exam fee prior to taking any subsequent examination.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 717, 718 and 721, Harbors and Navigation Code.*

**7608. Broker Qualifications.** (a) In addition to those persons specified in Section 719 of the Harbors and Navigation Code, if an individual can show that department records are incorrect, and he can, in fact, prove that he has been employed as a licensed Yacht and Ship Broker or Salesman for at least one year within the preceding five years, such applicant shall be deemed qualified to take the Yacht Broker's examination for a Yacht and Ship Broker's License.

(b) In addition to applicants described in Section 719 (d), every applicant for a broker's or salesman's license and every person entitled to act in the capacity of a broker on behalf of a corporation or partnership shall be at least 18 years of age.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 719, Harbors and Navigation Code.*

**7609. License Reinstatement.** Application for reinstatement of a license shall be on a form furnished by the department and must be accompanied by the appropriate fees.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 726 and 736, Harbors and Navigation Code.*

**7610. License Renewal (Failure to) Penalties.** (a) (Reserved)

(b) Any licensee who has failed to notify the department of a change of address, business structure, or in the case of a salesman, employing broker prior to renewal of license, and who does not submit the proper fee or fees for such change along with his renewal application and whose renewed or changed license is delayed beyond the expiration date of the license all or partly because of such failure, shall be subject to the penalty for reinstatement under provisions of Section 724(b) of the Harbors and Navigation Code.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 722, 723, 724, 726 and 738, Harbors and Navigation Code.*

**7611. Temporary Salesman's License.** (a) For purposes of Section 719 (a) of the Harbors and Navigation Code, experience while holding a temporary license as a salesman shall not be considered as partial experience necessary to qualify for a broker's license.

(b) In the event a salesman having the only temporary license permitted by subsection 725 (a) of the Harbors and Navigation Code does not obtain a permanent license, and two years have passed since the expiration date of such temporary license, the department may issue another temporary license, pursuant to provisions of subsection 726 (a) of the Harbors and Navigation Code.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 719, 725 and 726, Harbors and Navigation Code.*

**7612. Salesman's License, Transfer of, Restrictions on Employment.** (a) A temporary license to act as a salesman will be issued only to an applicant who has valid employment as such salesman with a duly licensed broker.

(b) A salesman's license or temporary salesman's license shall become inoperative upon the termination of such salesman's employment by a licensed broker, or upon the suspension or revocation of the employing broker's license. However, such salesman's license may be transferred to another licensed broker upon the holder's request. Such request for transfer must be accompanied by an application, as prescribed by the department, in writing executed by the new broker and the appropriate fee.

(c) No salesman shall associate himself with more than one broker concurrently.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 719, 725 and 726, Harbors and Navigation Code.*

**7613. Corporation and Partnership Licenses.** (a) A broker's license issued to a corporation or partnership shall disclose the name and license number of the corporation or partnership, along with the name of the officer or partner entitled to act on behalf of the corporation or partnership. Additional licenses issued to other officers or partners acting on behalf of the corporation or partnership only shall disclose the name and license number of the corporation or partnership, followed by the name of such additional officers or partners. In the event the corporation or partnership is dissolved, all licenses disclosing the name and number of the corporation or partnership become invalid.

(b) In the event a licensed partner of a partnership, who is also licensed as a broker on his own behalf while acting on

behalf of the partnership, violates any provision of the Yacht and Ship Brokers Act or regulations pertaining thereto, which is grounds for suspension or revocation of a license, both licenses may be suspended or revoked, and if necessary, either or both bonds attached. If such licensed partner, while acting on his own behalf commits such violation, his licenses to act on his own behalf and on behalf of the partnership are both subject to such suspension or revocation, and if necessary, his bond is subject to attachment.

(c) In the event a licensed officer of a corporation, who is also licensed as a broker on his own behalf while acting on behalf of the corporation, violates any provision of the Act or regulations pertaining thereto which is grounds for suspension or revocation of a license, both licenses may be suspended or revoked, and if necessary, either or both bonds attached. If such licensed officer of a corporation, while acting on his own behalf commits such violation, his licenses to act on his own behalf and on behalf of the corporation are both subject to such suspension or revocation and his bond is subject to attachment.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 728 and 729, Harbors and Navigation Code.*

**7614. Broker's Bond or Deposit.** (a) The Yacht and Ship Broker's Bond Endorsement used shall be of the form prescribed and provided by the department.

(b) The department may not release its interest in a cash deposit made pursuant to section 731 of the Harbors and Navigation Code until a surety bond, dated to include the period for which the cash deposit was made, is filed with the department.

(c) The period required by subsection (b) will not exceed four years.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 730 and 731, Harbors and Navigation Code.*

**7615. Coercive and Oppressive Methods.** It shall constitute coercive and oppressive methods within the meaning of Section 732, subsection (g) of the Harbors and Navigation Code, if a licensee who is also the owner, operator, or otherwise in charge of a landing pier or mooring place:

(a) Exacts or demands all or part of a broker's fee or commission from the sale by the owner or any other licensed broker or salesman of any yacht or boat moored at said landing pier or mooring place solely because said yacht or boat was or is moored at such pier or landing place;

(b) Expels or denies or refuses to permit the continued use or lease of such landing pier or mooring place by an owner of a boat or yacht for the reason that said boat or yacht is listed for sale with another licensee;

(c) Expels or denies or refuses to permit the continued use or lease of such landing pier or mooring place by the purchaser of a boat or yacht moored at such landing pier or mooring place because another licensee had made the sale of such boat or yacht.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 732 and 733, Harbors and Navigation Code.*

**7616. Definite Place of Business.** A definite place of business shall mean premises owned, rented, or leased by the broker which premises shall be locatable at a street address or road intersection and/or slip number, if applicable. A post office box and/or telephone number shall not be considered a definite place of business.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 735, Harbors and Navigation Code.*

**7617. Branch Offices.** (a) Any broker who regularly transacts business at a location other than his established principal office, or who employs other brokers or salesmen to do so shall be deemed to be maintaining a branch office at such location.

(b) A temporary exhibit of less than three weeks duration at a county or state fair or an organized boat or sport show shall not be deemed a branch office.

(c) If a broker uses more than one fictitious business name at the same location, a separate branch office license shall be obtained in addition to the current principal or branch office license at that location.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 708 and 735, Harbors and Navigation Code.*

**7618. Identification Card.** (a) A broker's identification card shall be issued only to the person named on the license, and there shall also appear on such card the name of the corporation, partnership or association which he represents. The broker to whom such identification card is issued shall place his signature thereon.

(b) A salesman's identification card shall be issued only to a licensed salesman, and shall bear the name of the employing licensed broker. The salesman shall place his signature thereon.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 735, Harbors and Navigation Code.*

**7619. Broker-Salesman Relationship Agreement.** Every broker shall have a written agreement with each of his salesmen, whether licensed as a salesman or as a broker under a broker-salesman arrangement. The agreement shall be

dated and signed by the parties and shall cover material aspects of the relationship between the parties. Signed copies of the agreement shall be retained by the parties thereto, and shall be available for inspection by the department or its designated representative on request.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 703, Harbors and Navigation Code*

**7620. Retention of Records.** A licensed broker shall retain for four years copies of all listings, deposit receipts, cancelled checks, trust records, and other documents executed by him or obtained by him in connection with a transaction for which a Yacht and Ship Broker's License is required. Upon request, these records shall be made available to the Department for their inspection.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 703, 714, 715 and 716, Harbors and Navigation Code.*

**7621. Government Office.** When the holder of a Yacht and Ship Broker or Salesman's License is required to relinquish his license to assume an office in local, state, or federal government, he may have it reinstated at any time within six months of termination of his service in such office upon payment of the appropriate renewal fee.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Section 724, Harbors and Navigation Code.*

**7622. Property Taxes.** Any agreement between a buyer and seller of a yacht negotiated by a broker to prorate personal property taxes for a twelve-month period shall specify the applicable tax year and the date of the commencement of such twelve-month period, and shall clearly state the actual amounts payable by the seller and buyer.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 703 and 716, Harbors and Navigation Code.*

**7623. Offers.** (a) The licensee must present or cause to be presented to the owner of the vessel any offer to purchase received prior to the completion of a sale, unless expressly instructed by the owner not to present such an offer.

(b) A licensee shall not present competing offers to purchase a vessel to the owner in such manner as to induce the owner to accept an offer which will provide the greatest compensation to the licensee, without regard to the benefits, advantages, and/or disadvantages to the owner.

*NOTE Authority cited: Section 703, Harbors and Navigation Code. Reference: Sections 709 and 716(c), Harbors and Navigation Code.*